

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

ALLSTATE INSURANCE COMPANY, as)	
subrogee of SHIRA HAMMANN,)	
)	
Plaintiff,)	Case No: 20-cv-2349
)	
vs.)	Jury Demand
)	
DELL TECHNOLOGIES INC.;)	
WORLDWIDE TECH SERVICES, LLC, and)	
SIMPLO TECHNOLOGY CO., LTD.)	
)	
Defendant.)	

NOTICE OF REMOVAL

Please take notice that defendant Dell Technologies Inc. (“Dell”) hereby removes Case No. 2020 L 2389 from the Circuit Court of Cook County, Illinois, Law Division, to this Court. This removal is based on the following grounds:

1. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 because diversity jurisdiction exists.
2. On or about November February 26, 2020, plaintiff commenced this action by filing a Complaint in the Circuit Court of Cook County. (*See* Summons & Compl., Ex. 1.)
3. Plaintiff purports to have served Dell via “registered or certified” mail under the Illinois Business Corporation Act, 805 Ill. Comp. Stat. 5/5.25(b)(2), after leaving a copy of the complaint with the Illinois Secretary of State. Plaintiff’s certified mail envelope is postmarked “MAR. 16, 2020.” (Envelope, Ex. 2.) Dell received the envelope on March 23, 2020. (*Id.*)

NATURE OF THE CASE

4. Plaintiff is purportedly the subrogee of Shira Hammann, who owned a Dell laptop computer that allegedly caught fire on January 9, 2018. (Compl. ¶¶ 1-11.)

5. Plaintiff has sued Dell in connection with the January 9, 2018 incident claiming: (1) “breach of implied warranties,” (Compl. Count III); (2) negligence (Compl. Count IV); and (3) strict product liability (Compl. VI.)

6. Plaintiff also sued two other defendants: Worldwide Tech Services, LLC (“Worldwide”), the alleged repair company for the laptop; and Simplo Technology Co., Ltd. (“Simplo”), the alleged manufacturer of a laptop battery. *See* Compl. Counts I-II and VII-IX.

PROCEDURAL STATEMENT

7. The prerequisites for removal under 28 U.S.C. § 1441 have been met.

8. Dell disputes that it was properly served with process under 805 Ill. Comp. Stat. 5/5.25(b)(2). Among other reasons, plaintiff’s representatives were in regular contact with Dell’s representative before filing the complaint and did not use “reasonable diligence” in attempting to serve Dell through other means before resorting to the certified mail method of last resort.

9. To avoid any doubt, this notice of removal is filed within 30 days of the time plaintiff purported to serve Dell via certified mail, and is therefore timely under 28 U.S.C. § 1446(b). *Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999).

10. To the best of Dell’s knowledge and after a reasonable effort to ascertain the status of service, plaintiff has not served codefendants Worldwide and Simplo with the summons and complaint, and their consent to removal is therefore not required under 28 U.S.C. § 1446(d) because they have not yet been “properly joined and served” in this case.

11. Pursuant to 28 U.S.C. 1441(a), Dell attaches to this Notice of Removal all pleadings and process that have been served on it.

12. As required by 28 U.S.C. § 1446(d), Dell will promptly serve upon plaintiff’s counsel and file in Cook County, Illinois, a true and correct copy of this Notice of Removal.

**COMPLETE DIVERSITY OF CITIZENSHIP EXISTS BETWEEN PLAINTIFF
AND ALL DEFENDANTS**

13. Plaintiff Allstate Insurance Company is incorporated under the laws of Illinois and its principal place of business is in Northbrook, Illinois. Plaintiff's subrogee Shira Hammann is an Illinois citizen who is domiciled in Cook County, Illinois.

14. Dell Technologies Inc. is incorporated under the laws of Delaware and its principal place of business is in Round Rock, Texas.

15. Worldwide Tech Services, LLC is a limited liability company organized under the laws of Delaware with its principal place of business is in Tewksbury, Massachusetts. None of its LLC members are Illinois citizens. To Dell's knowledge, all of the LLC members of World Wide Tech Services, LLC, are citizens of New York.

16. Simplo Technology Co., Ltd. is a foreign corporation organized under the laws of Taiwan, and its principal place of business is in HsinChu, Taiwan.

17. There is thus complete diversity of citizenship between plaintiff, an Illinois citizen, and the three defendants, none of whom is an Illinois citizen.

THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

18. Plaintiff claims that it has incurred damages in excess of \$90,000. (See., e.g., Compl. page 7.) It is therefore certain that plaintiff's alleged damages in this case exceed \$75,000, exclusive of interest and costs.

CONCLUSION

For the reasons set forth above, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 and removal of this action to this Court is proper under 28 U.S.C. § 1441. In accordance with 28 U.S.C. § 1446, defendant Dell is concurrently filing a copy of this notice with

the Circuit Court of Cook County and has attached hereto as exhibits all process, pleadings and orders served on it in Case No. 09 CH 45373.

Dated: April 15, 2020

/s/ George D. Sax

George D. Sax ARDC # 6279686
SCHARF BANKS MARMOR LLC
333 West Wacker Drive, Suite 450
Chicago, Illinois 60606
Telephone: 312-726-6000
gsax@scharfbanks.com

*Counsel for Defendant Dell Technologies
Inc.*

CERTIFICATE OF SERVICE

I certify that on April 15, 2020, I, counsel for Dell Technologies Inc., served the foregoing **NOTICE OF REMOVAL** via electronic mail to the below-listed counsel of record for plaintiff in state court.

/s/ George Sax._____

Joseph P. McFadden
MCFADDEN LAW GROUP, P.C.
108 W. Washington Street, Suite 310
Chicago, IL 60602
Phone: (312) 641-9830
jpmcfadden@mcfaddenlawgroup.com

Counsel for Plaintiff